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Deposition of JOHN F. CIRITELLA taken
pursuant to notice at the law offices of Richards,
Layton & Finger, One Rodney Square, Third Floor,
Wilmington, Delaware, beginning at 10:00 a.m. on
Monday, May 8, 2006, before Kathleen White Palmer,
Registered Professional Reporter and Notary Public.

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21 Q. At any point from the time that you first heard
22 the call for assistance to the point at which you
23 stopped discharging your weapon, did anyone tell you
24 there was a shotgun in the car or that Mr. Smith was

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1 armed with a shotgun? Did anybody tell you that?
2 A. Did anybody tell me that?
3 Q. Yes.
4 A. No, nobody told me that.

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17 Q. So the first shot that you fired the car was
18 about a car length away; correct?
19 A. I'd say that, yes.

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5 Q. As he was driving around or past you and you
6 were shooting into the passenger's side window, it was

7 your intention to kill him; correct?

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8 A. That's correct.

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6 Q. I want to take you back to being on the

7 sidewalk, walking still on the sidewalk before you

8 step out into the street on the other side of that

9 blue car.

10 Did you see any people, any citizens on the

11 street? On the porch? Anything like that?

12 A. No, ma'am.

13 Q. When you stepped into the street and shot into

14 the car, did you see any people in the street on the

15 porches? Anything?

16 A. No, ma'am.

17 Q. Was there ever a time where you became aware

18 that there were people on the street and on the

19 porches?

22 A. I never saw any people. The only person that I

23 saw was Sergeant Dempsey, Tom Dempsey, and he would

24 have been in this area. He's the only person that I

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1 saw.

12 Q. Did you see any police vehicle in the vicinity

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13 of Officer Dempsey, not including your police vehicle?

14 A. No, ma'am.

19 Q. Did you see any other police officers --

20 A. No, ma'am.

21 Q. -- as you're walking on the sidewalk?

22 A. No, ma'am.

23 Q. As you step into the street and fire, did you

24 see any other police officers?

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1 A. No, ma'am.

2 Q. You saw no citizens, no civilians at all?

3 A. No, ma'am.

11 Q. As you're walking on the sidewalk, did you look

12 up the hill at any point to see if there was a police

13 car at the top of that hill?

14 A. No, ma'am.

15 Q. When I say "top of the hill," I'm talking about

16 the intersection of -- I guess it would be 6th and

17 Harrison.

18 A. 6th and Harrison, no, ma'am.

19 Q. After you put the car in park, did you have any

20 bullets left in your gun?

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21 A. No.

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16 Q. So "clear backdrop" in your definition does not
17 mean there's nothing behind the target at which you're
18 shooting?

19 A. Clear backdrop in my definition --

20 Q. Yes, sir.

21 A. -- would be that if I'm to discharge a round,
22 there's nothing in that sight picture that I feel that
23 I can cause harm to or damage to beyond that sight
24 picture of what I'm aiming at.

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1 Does that make sense to you?

2 Q. Yes, sir, it does.

3 So you didn't see in your backdrop David

4 Gwyn standing near his home?

5 A. I don't even know who David Gwyn is.

6 Q. In your backdrop, you didn't see the little

7 girl who was standing on the street?

8 A. I don't know of a little girl.

9 Q. In your backdrop you didn't see a Hispanic male

10 in his early twenties standing on the street?

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11 A. No, ma'am.

12 Q. Do you know who shot the innocent bystander

13 lady in the leg in this exchange?

14 A. No, ma'am.

15 Q. Did you ever see her?

16 A. No, ma'am.

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2 Q. Do you know how long, how much time passed
3 between the point at which you joined the caravan of
4 police vehicles pursuing the stolen police car, the
5 point at which you first joined to the point at which
6 you stopped firing your gun? Do you know how much
7 time passed?

8 A. I would say maybe a couple minutes. It was
9 only three blocks that I drove while I was actively
10 engaged and I would say a couple minutes, thereabouts.

11 Q. About two minutes?

12 A. I would say that would be -- somewhere in that
13 vicinity.

14 Q. Could it have been less than a minute?

15 A. Again, I'm only -- I'm only estimating. I
16 don't have a certain time frame in mind. I would say
17 certainly around two minutes, plus or minus.

18 Q. So you don't think it was as long as five or
19 ten minutes?

20 A. Certainly not.

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5 Q. Prior to this incident, had you ever been in

6 the vicinity of 5th and Harrison Street?

7 A. Absolutely.

8 Q. Were you aware that it's a highly populated

9 area, the 500 block of Harrison Street?

10 A. As with most blocks, yeah, they are densely

11 populated, highly populated, yes.

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16 Q. So at the point that you were standing where

17 the red X is marked on Exhibit Number 10, how far away

18 was the stolen vehicle from you?

19 A. I guess it was proceeding in a westbound

20 manner.

21 Q. Do you think it was yards away? Half a block

22 away?

23 A. I was at least half a block away.

24 Q. Were you crouching at all?

Page 76

1 A. No, ma'am.

2 Q. Or are you just standing there?

3 A. Standing behind the wall so I could at least

4 look down the block and get a visual on what he was

5 going to do next.

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22 Q. What did you do when you saw it stop?

23 A. At that particular time I came away from the

24 wall and stepped out in this manner and began giving

Page 78

1 verbal commands.

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20 Q. All right. So you made the verbal commands.

21 Then what happens?

22 A. Vehicle starts coming towards me. I start

23 backpedalling, at which point I fear that he's going

24 to hit me, at which point I discharged my weapon.

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7 Q. As it passed you, you shot into the passenger's

8 side front window; correct?

9 A. Passenger side front window, that's correct.

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9 Q. Do you know if you hit him as you were shooting

10 through the passenger's side window?

11 A. Yes, ma'am. I know I hit him twice.

12 Q. Where do you think you hit him?

13 A. I knew I hit him in the arm region.

14 Q. You are rubbing an arm and you think you hit

15 him in the right arm?

16 A. Yes, ma'am.

17 Q. Where else do you think you hit him?

18 A. Well, I eventually know that I actually hit him

19 in the head area.

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2 Q. While you were on the sidewalk before you
3 stepped into the street, did you fire any additional
4 shots?

5 A. No, ma'am.

6 Q. So you stepped into the street and you then
7 commenced firing for a third time; is that correct?

8 A. That's correct.

9 Q. Where are you pointing at this time?

10 A. I'm pointing at, I guess, the individual that's
11 driving the police car.

12 Q. Because I assume you're behind him at this
13 point, or are you still on the side?

14 A. I'm alongside of him. I'm able to -- let's see
15 here.

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11 Q. You step into the street. Do you then begin to
12 fire again into the car?

13 A. I fire, I believe, just two rounds.

14 Q. Into the car, and you're at the 3:00 position?

15 A. Towards the driver.

16 Q. Towards the driver?

17 A. That's correct.

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22 Q. Did you write out any report?

23 A. No, ma'am, I did not.

24 Q. Why not?

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1 A. I believe -- well, I'm not sure what the policy

2 is, but I didn't have to write a report, no.

3 Q. No one asked you to write a report about what

4 happened?

5 A. No, ma'am.